



NATIONAL ASSOCIATION OF REALTORS®

*The Voice for Real Estate®*

430 North Michigan Avenue  
Chicago, IL 60611-4087  
312 329 8270 fax 312 329 8256  
www.REALTOR.ORG

LEGAL AFFAIRS

January 13, 2004

Federal Election Commission  
999 E. Street, N.W.  
Washington, DC 20463

Attn: Jeff S. Jordan, Supervisory Attorney  
Complaints Examination & Legal Administration

**RE: MUR 5620**

Dear Mr. Jordan:

This letter is in response to yours dated December 20, 2004 and received by the REALTORS® (Political Action Committee ("RPAC")) on January 4, 2005. As you are aware, RPAC is the separate segregated fund of the National Association of REALTORS® ("NAR.")<sup>1</sup> I enclose a Statement of Designation of Counsel designating me as counsel to RPAC in this matter.

The complainant in this matter alleges that he received several flyers that "appear to me to advocate the candidacy of Richard Burr" and were "paid for by the National Association of REALTORS®." He also notes that he is not a member of NAR and contends that "any reasonable individual would consider the act of producing and distributing this flyer to be a political contribution to Mr. Burr." Enclosed with the complaint are copies of six different printed communications ("flyers") that mention Richard Burr. For the reasons set forth below, the production and distribution of these flyers does not violate the Federal Election Campaign Act of 1971, as amended ("Act"), and RPAC respectfully requests that the Commission and Commission staff take no action against RPAC in response to this complaint, and dismiss this matter without further action.

Two different types of flyers are included with the complaint. The first consists of the four flyers entitled "The Wedding was Expensive Enough," "The American Dream is Turning into a Reality," "A little nicer yard, A little bigger house," and "Richard Burr is Opening Up Homeownership to More Families," each of which bear the identifying notice "Paid for by the National Association of REALTORS® and authorized by the North Carolina Association of REALTORS®." As explained in the December 23, 2004 response of NAR to your correspondence in connection with this MUR 5620, NAR paid all costs associated with the

<sup>1</sup> RPAC is a registered multi-candidate federal political committee, FEC Registration No. C00030718.



RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2005 JAN 19 10 49 59

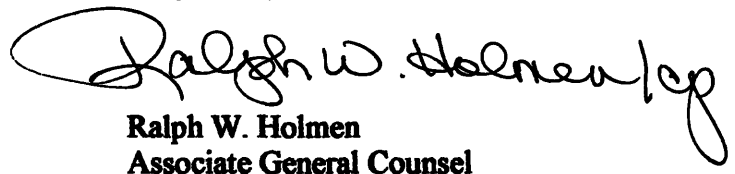
27044161588

production and distribution of these four flyers. For the reasons explained in NAR's response to this MUR, NAR's payment of those expenses do not violate the Act. RPAC did not pay any of the costs or expenses associated with the distribution of those flyers.

The second group of flyers included with the complaint consists of the two entitled "Make Waves" and "Yours in the Voice of Freedom." These flyers each contain words of express advocacy in support of Richard Burr, and in each case display a disclaimer/non-authorization notice as required by §§110.11(b)(3), 110.1(c) (2) and 110.11 of the Commission's Regulations. As indicated in the notice, and as also explained in NAR's prior response, the costs of production and distribution of these flyers were paid entirely and exclusively by RPAC. None of the costs associated with the production and distribution of these flyers were paid by NAR or by the North Carolina Association of REALTORS®. These flyers were created and distributed at RPAC's sole expense as an independent expenditure in compliance with the requirements of §431(17) of the Act and §§100.16 and 109.21 of the Commission's Regulations. RPAC carefully developed, produced and distributed these flyers in a manner that at all times avoided any conduct that would constitute or even appear to constitute coordination with the Burr campaign, as described in §109.21(c) of the Regulations, and, notably, the complaint does not include allegations or suggest any facts otherwise. Thus, no limit applies to the amount expended by RPAC in connection with these flyers. All the costs of these flyers incurred and paid by RPAC were duly and properly reported as independent expenditures on RPAC's reports to the FEC, in accordance with the independent expenditure reporting requirements of the Regulations.

For the foregoing reasons, I respectfully request on behalf of the REALTORS® Political Action Committee that the Commission and Commission staff take no action against RPAC in response to this complaint, and that it be dismissed without further action. I would be happy to discuss with you any questions or comments you may have regarding the information above, or to provide any other information or material which will assist you in concluding to dismiss this complaint. Please feel free to contact me at your convenience at 312/329-8375.

Very truly yours,

  
Ralph W. Holmen  
Associate General Counsel

RWH/cp

Enclosures

cc: C. Michael Brodie, Treasurer  
Laurene K. Janik, General Counsel  
Walt Witek, Vice President, Government Affairs  
Lisa Friday Scott, Senior Public Advocacy Representative, Government Affairs  
Scott Reiter, RPAC Program Representative, Government Affairs



FEDERAL ELECTION COMMISSION

999 E Street, NW

Washington, DC 20463

Statement of Designation of Counsel  
(Respondent/Witness)

Name of Counsel: Ralph W. Holmen

Firm: National Association of REALTORS

430 N. Michigan Ave., Chicago, IL 60611

Telephone: ( 312 ) 329-8375

Fax: ( 312 ) 329-8256

The above named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

1/10/05  
Date

Michael Brodie  
Signature

Name (Print): C. Michael Brodie

Address: 430 N. Michigan Ave.

Chicago, IL 60611

Telephone: Home ( )

Business ( 312 ) 329-8540

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

27044161590